

General Information Letter: No Homeowners' Property Tax Relief rebate is payable to individual who was not eligible for a residential property tax credit for 1999.

October 10, 2000

Dear:

This is in response to your letter dated September 27, 2000, which was received by the Legal Services Bureau on October 6, 2000, in which you request information regarding the "Tobacco Rebate". Department of Revenue ("Department") regulations require that the Department issue only two types of letter rulings, Private Letter Rulings ("PLRs") and General Information Letters ("GILs"). PLRs are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. GILs do not constitute statements of agency policy that apply, interpret or prescribe the tax laws and are not binding on the Department. For your general information, the regulation governing the issuance of letter rulings, 2 Ill. Adm. Code Part 1200 regarding rulings and other information issued by the Department, can be accessed at the Department's website. That address is www.revenue.state.il.us/legalinformation/regs/part1200. The nature of your question and the information provided require that we respond only with a GIL.

In your letter you state as follows:

I am writing regarding the Tobacco Rebate for personal residences based on real estate taxes. I am the fiduciary agent for a living trust #xx-xxxxxxx and in that trust are 2 personal residences, 1 at xxxxxxxxxxxxxxxxxxxx and the other at xxxxxxxxxxxxxxxxxxxx. The real estate taxes for these 2 personal residences are paid under the trust and therefore not eligible for the income tax reduction on line 20 of the personal IL 1040 form, however, I feel they should be eligible for the tobacco rebate. Attached are the copies of the real estate tax bills for these residences. I am requesting that the rebate be sent to me as fiduciary of the trust. If that is not possible please send an explanation.

Please find enclosed herewith a copy of P.A. 91-703. As you can see from the high-lighted language, a taxpayer must have been entitled to the credit for Illinois property taxes paid on his or her 1999 IL-1040 in order to be eligible for the "Tobacco Rebate" provided for therein. You have answered your own question by stating that the taxpayer(s) to whom you refer could not claim a personal credit for Illinois property taxes paid on the 1999 return because the property at issue was held in a living trust. As a result, the taxpayer(s) is not eligible for the rebate. The terms of this statute are unambiguous on this matter and it is not within the power of the Illinois Department Of Revenue to circumvent them.

We trust that this GIL adequately responds to your inquiry. If you have any further questions regarding this GIL, you may contact this office at (217) 782-7055. If you have further questions regarding the Illinois Income Tax Act, you may access the website referenced above or contact the Department's Taxpayer Information Division at (217) 782-3336.

IT 00-0078-GIL
October 10, 2000
Page 2

Sincerely yours,

Jackson E. Donley,
Senior Counsel-Income Tax